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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 UNITED STATES OF AMERICA,
10 Plaintiff,
11 v.
12 NIKOLAI TEHIN,
13 Defendant.

No. CR 03-00236 SI

**ORDER REQUESTING FURTHER
BRIEFING FROM THE UNITED
STATES**

14
15 On June 20, 2011, defendant Nikolai Tehin filed a motion to vacate, set aside, or correct his
16 sentence pursuant to 28 U.S.C. § 2255. Dkt. 187. In his motion, Tehin raised a number of arguments
17 attacking his conviction. One of the grounds on which he attacks his conviction is that the promotional
18 Money Laundering counts upon which he was convicted present a merger problem with the Mail Fraud
19 counts upon which he was also convicted. *Id.* at 20-21 (*citing Santos v. Dias*, 533 U.S. 507 (2008)).

20 On November 7, 2011, the United States filed an opposition to Tehin's motion. Dkt. 196. The
21 government did not address Tehin's merger argument. The government stated in a footnote that, "Tehin
22 also challenges his money laundering convictions, but only on the ground that the unlawful activity gave
23 rise to the laundered funds was an honest services fraud. Because the jury's verdict shows that Tehin
24 also engaged in a money-or-property fraud, his attack on the money laundering counts should likewise
25 be rejected." *Id.* at 15. However, Tehin challenged the money laundering on the separate basis that the
26 money laundering charges merge with the mail count charges, without reference to his honest services
27 argument.

28 The government is hereby ORDERED to provide supplemental briefing of no more than 5 pages

1 as to any opposition it has to Tehin's merger argument. The brief is due by **May 11, 2012.**
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3 **IT IS SO ORDERED.**

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5 Dated: April 16, 2012
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Susan Illston
SUSAN ILLSTON
United States District Judge

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